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**FISCAL IMPACT STATEMENT**

**LS 6373**

**BILL NUMBER:** HB 1367

**NOTE PREPARED:** Jan 26, 2010

**BILL AMENDED:** Jan 25, 2010

**SUBJECT:** Education Matters

**FIRST AUTHOR:** Rep. Porter

**FIRST SPONSOR:**

**BILL STATUS:** CR Adopted - 1<sup>st</sup> House

**FUNDS AFFECTED:** X **GENERAL**  
**DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill delays the implementation of the School Scholarship Tax Credit and Virtual Charter School Pilot Program. It repeals a noncode provision indicating that the School Scholarship Tax Credit Program applies to taxable years beginning after December 31, 2009.

The bill requires an educational management organization used by a charter school to be a nonprofit organization. It prohibits a member of the governing body of a school corporation from serving on the board of directors of a charter school and prohibits a member of a board of directors of a charter school from serving on the board of directors of more than one charter school. The bill also requires charter schools to report certain information about the retention of special education students to the state Department of Education.

The bill prohibits the use of a private educational management organization to manage, operate, or provide instructional services or staff for a school corporation.

The bill permits up to 5% of the balance of the Capital Projects Fund to be used to pay the costs of utility services and property or casualty insurance.

The bill requires actions by school corporations to establish and carry out a plan to preserve and protect instructional programs.

This bill establishes the Instructional Services Restoration Grant Program to provide additional funds to school corporations to preserve and protect instructional programs.

The bill makes an appropriation.

**Effective Date:** January 1, 2010 (Retroactive), Upon Passage.

**Explanation of State Expenditures:** *School Scholarship Tax Credit:* The Department of State Revenue would need to revise tax forms and instructions to accommodate the changes in this credit, which can be done with existing resources.

*Virtual Charter School Pilot Program:* The bill delays the Virtual Charter School Pilot Program until the 2012-2013 school year. Currently, the pilot is in operation by Hoosier Academy and enrolls about 107 students. The maximum enrollment for the pilot program is 200 students for the 2009-2010 school year and 500 students for the FY 2010-2011 school year. The charter school would not be eligible for state funding from tuition support from July 1, 2010, to June 30, 2012. The estimated tuition support for CY 2010 is \$479,407. The bill would distribute 50% of the CY 2010 distribution in the first six months of CY 2010. The virtual charter would not be eligible for a distribution in the last six months of CY 2010, all of CY 2011, and the first six months of CY 2012. The potential reduction in tuition support is about \$240,000 for CY 2010 and a maximum of about \$2.5 M for CY 2011 and \$2.0 M CY 2012.

Students who were educated by the virtual charter school during the 2009-2010 school year could return to public schools for the 2010-2011 school year. This could increase the tuition support distribution to the school they attend, depending on the school's formula calculations. The additional costs for the tuition support formula would be subject to the calendar year cap. If the additional students cause the distribution to exceed the cap then all schools would be proportionately reduced so the distribution did not exceed the cap.

*Instructional Services Restoration Fund:* The bill establishes the Instructional Services Restoration Fund. The bill transfers the amounts that would have been spent on School Scholarship Tax Credits (estimated \$2.5 M in FY 2011 and FY 2012) and Virtual Charter Schools (estimated at \$1.5 M in FY 2011 and FY \$2.25 M in FY 2012) into the fund. The bill also transfers \$500,000 from ACT/SAT Test Preparation and \$717,449 from the PSAT Program in FY 2011 to the fund. The amount of the transfer could be about \$5.2 M for FY 2011 and about \$4.75 M for FY 2012.

The fund is to provide grants to schools to preserve and protect instructional programs, including class sizes, curriculum or program offerings, and certified employee positions and teaching assistants. Grants, based on approved grant applications by the Department of Education, would probably be equal to the transfers into the fund.

**Explanation of State Revenues:** *School Scholarship Tax Credit:* This bill would delay the School Scholarship Tax Credit until CY 2012. Currently, the credit is a nonrefundable tax credit to individuals and corporations that make contributions to scholarship-granting organizations beginning in tax year 2010. The credit is equal to 50% of the amount of the charitable contribution, and may be taken against the Individual and Corporate AGI Tax, the Financial Institutions Tax, and the Insurance Premiums Tax. The tax credit may not be carried back or carried forward. Revenue from the Individual and Corporate AGI Tax, the Financial Institutions Tax, and the Insurance Premiums Tax is distributed to the state General Fund.

The amount of credits that might have been claimed and the resulting fiscal impact on the state General Fund beginning in FY 2011 is indeterminable. However, the amount of credits granted may not exceed \$2.5 M in any fiscal year, so the maximum increase in revenue for FY 2011 and FY 2012 is \$2.5 M annually.

**Explanation of Local Expenditures:** *Charter Schools:* The bill makes several changes for charter schools. A charter school would not be able to enter into, renew, or extend a contract with an education management organization that is not an organization exempt from the federal adjusted gross income tax. The director of a charter school may not be the director of another charter school or a member of a governing body of another charter school. The provisions could increase the administrative expenses for charter schools and would be paid from current resources.

Charter schools would have to include the number of charter school students who were enrolled in special education programs the previous or current year and who were expelled, suspended, or stopped attending classes before graduation and the reasons in their annual reports. The provisions could increase the administrative expenses for charter schools and would have to be from current resources.

The bill would require a charter school organizer to provide information showing that at least 51% of the parents of students enrolled in the school corporation where the charter school will be located have signed a petition or voted in an election conducted by the school corporation requesting the establishment of the charter school. The bill could make the creation of new charter schools harder in the future. The impact would depend on where the charter school would have been located. The impact is indeterminable.

*Capital Projects Fund Expenditures:* The bill allows schools to spend up to 5% of Capital Projects Fund year- end cash balances and revenue into the fund during the calendar year for any expenditure could have been paid from the school General Fund. The impact would depend on whether a school chooses to make the expenditures from the Capital Projects Fund and the amount of money available for transfer. For CY 2009, there would have been about \$57.2 M available for general fund-type expenditures.

*Emergency Measures to Maintain Instruction and Learning Programs:* Schools are required to adopt a plan describing the actions that are necessary and desirable to preserve and protect instructional programs, including class sizes, curriculum or program offerings, and certified employee positions and teaching assistants. The school is to submit periodic reports to the State Board of Education on the efforts to implement the plan. The actions are to include:

1. An evaluation of cash balances the school must maintain in 2010 and 2011.
2. An evaluation of the cash balance in the General Fund projected to be greater than 8% of the current budget. Based on the CY 2008 ending cash balance and the CY 2009 certified General Fund budget, about 152 schools had cash balances in excess of 8%. The amount of the excess over 8% was about \$37.6 M. Cash balances could have changed dramatically since 2008.
3. An evaluation of the school's Rainy Day Fund that exceeds 50% of the fund's cash balance on January 1, 2010. The CY 2008 ending cash balance for the Rainy Day Fund was about \$202.6 M. The amount in excess of 50% would be about \$101.3 M. Cash balances could have changed dramatically since 2008.

Schools are to reduce their expenditures for overhead, operation, and nonoperational expenditures by 5% for FY 2011 and 10% for FY 2012. Based on reports by the Office of Management and Budget, FY 2008 overhead, operation, and nonoperational expenditures totaled about \$4.33 B. A 5% reduction in FY 2011 would be about \$216.6 M, and a 10% reduction in FY 2012 would be about \$433.3 M. The savings would remain in the funds from which the expenditures would have been made. Savings in federal funds overhead, operation, and nonoperational expenditures would remain with the specific federal fund. Savings in the Debt Service Fund would reduce the Debt Service Fund expenditures and could reduce the debt service levy. Schools would not be able to transfer the savings in non-general funds to the general fund.

Schools are to reduce expenditures for nonessential testing that is not required by the federal government. The tests include:

1. K-2 diagnostic testing.
2. Grade 3-8 acuity testing.
3. CORE 40 end-of-course assessments.
4. NWEA testing.
5. PSAT testing not paid by the state.
6. ISTEP social studies testing.

The provision would reduce local school test costs. The reduction would depend on the amount of testing done at the local level that is not currently reimbursed or provided by the state.

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of State Revenue; Department of Education; Budget Agency.

**Local Agencies Affected:** Local schools

**Information Sources:** Department of Education Databases.

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